

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

PLANNED PARENTHOOD
MINNESOTA, NORTH DAKOTA,
SOUTH DAKOTA, and CAROL E.
BALL, M.D.

Plaintiffs,

v.

DENNIS DAUGAARD, Governor,
MARTY JACKLEY, Attorney General,
KIM MALSAM-RYSDON, Secretary of
Health, Department of Health, and
JEFFREY A. MURRAY, M.D.,
President, Board of Medical and
Osteopathic Examiners, in their official
capacities,

Defendants,

ALPHA CENTER and BLACK HILLS
CRISIS PREGNANCY CENTER,

Intervenors.

Case No. Civ. 11-4071-KES

DECLARATION OF
B [REDACTED] H [REDACTED]
PURSUANT TO 28 U.S.C. §1746

B [REDACTED] H [REDACTED], being of full age, deposes and says:

1. On March 26, 2012, I was forced to have an abortion at the Planned Parenthood facility in Sioux Falls, South Dakota. At the time, I lived with my father in [REDACTED], South Dakota and attended [REDACTED] High School in [REDACTED]. My mother lived in Texas.

2. My name is B [REDACTED] H [REDACTED] and I reside at [REDACTED], [REDACTED], Texas. I am currently 22 years old and raising my two young sons. I live in close proximity to my mother. I understand that my Declaration containing my full name and address will be filed with the Court under seal. Because of my current situation, I prefer that my full name and address not appear in a document that will be made public record. I have asked that a redacted version of this Declaration be publicly filed with only my initials and the name of the state I

currently live in.

3. My parents separated when I was a baby, and I was placed in my father's custody. When I was growing up in my father's home, he was often angry and abusive toward me. He made repeated derogatory and angry comments. Just about anything would set him off into a tirade. He raised his voice at me for the smaller things. If my grades were lower than an 'A', he would scream at me. Sometimes, my father would forcefully push me against a wall or put his hands around my throat. I was terrified of him and lived in fear.

4. In addition to being emotionally and verbally abusive, my father was also very controlling. I worked two jobs, but my father would take all my pay which made me completely dependent on him for every little thing. He seemed to know everything that I did and would look through my call history and text messages on my cell phone.

5. Naturally, I was dependent on my father for a place to live and for money to spend. But I also had to drive his truck to both my jobs and he paid for the auto insurance. I had a phone, but no credit or debit cards, and my father took all the money from my paychecks.

6. When I was in high school, I started dating a young man who was four years older than me. We dated for nine months and we were in a committed, exclusive relationship, and I thought that I loved him. In my boyfriend I found the love and emotional support that I never had from my father.

7. One day when I returned home after school, my father told me that there was a pregnancy test in the bathroom and demanded that I test myself. I couldn't refuse. I tested positive. When I came out of the bathroom, I told my father the results. He became extremely angry. I was 15 years old at the time and my boyfriend was 19.

8. My father said something like: "well you know what we're gonna' do, right?" He

then demanded an abortion. He told me that it was “statutory rape,” and under the law, my boyfriend – the man I felt I loved – could be prosecuted. My father told me that if I didn’t have an abortion, he would report my boyfriend to the police, and he would make sure that he would be a registered sex offender. Because of my father’s threats, I thought I would be stuck living in his abusive home with a newborn while my boyfriend was in jail. My father also demanded that I not tell anyone that I was pregnant. In retrospect, I realize that this was part of how he wanted to isolate me, so I had no help to resist his demands.

9. The next day at school, however, I texted my boyfriend to tell him that I was pregnant. At the time, he was a freshman at Lake Area Technical Institute in Watertown. He would come home on weekends and we would spend time together. During the week, we would talk or text every day. By the time I texted my boyfriend, my father had already called him. My boyfriend told me that my father had told him that I was going to have an abortion and that if I didn’t have one, he would report my boyfriend to the police for statutory rape.

10. I realized that my father figured I would tell my boyfriend about the pregnancy and my father wanted to prevent him from involving anyone who could help me. My boyfriend said that he wanted to start a family with me, but that there was no way we could have the baby if my father was going to report him to the police. We talked about the possibility of me living with my mom in Texas and my boyfriend joining me and the baby once he finished his two-year degree in another year. My boyfriend was afraid of my father and thought none of those plans could materialize if my father reported him to the police. Although we wanted to have our baby and get married, we couldn’t figure out the best way to resist my father’s threats.

11. Within a week of the home pregnancy test, my father took me to my family doctor in Pierre to confirm the pregnancy. The nurse told me that I was pregnant and started to talk to me

about “options,” including raising my baby. My father interrupted and told her firmly that we already knew what we were going to do. My father told me “you are getting an abortion.” On a prior occasion, my father told me “If you don’t get an abortion, I will make your life a living hell.” I didn’t want to have an abortion, and I saw that the nurse could tell I was afraid of my father. She looked emotionally upset as the nurse and I made eye contact. I was teary eyed. My father immediately took me home.

12. As soon as we got home, my father called Planned Parenthood in Sioux Falls to schedule the abortion. The woman on the phone scheduled the abortion for March 26, 2012. She did not ask to speak with me and did not get my permission to schedule the abortion.

13. On the morning the abortion was scheduled, my father and his girlfriend drove me to the Planned Parenthood facility in Sioux Falls for the abortion. Because Sioux Falls is about 3½ hours away, we left early in the morning. When we got to Planned Parenthood, the two of them walked me into the building. My father’s girlfriend and I sat in the waiting room while my father checked me in and paid for the abortion. After paying, my father sat next to me in the waiting room and filled-out the paperwork. I didn’t read any of the paperwork and no one explained to me what was in it. I don’t remember what I signed, but what I signed was put in front of me by my father and I was told to sign it. At some point thereafter, I realized that one of the papers signed in the waiting area must have been the “consent” for the abortion. At the time I signed the papers, I had not spoken with any Planned Parenthood staff or doctors.

14. A short time later, my name was called, and I went back to a small enclave in the hall where a worker pricked my finger and reviewed the paperwork. She asked me questions like what was the first day of my last menstrual period and whether I had any drug allergies. She also told me about various types of birth control. She didn’t tell me anything about the abortion. The

worker did not ask if anyone was pressuring me or forcing me to have an abortion that I didn't want. She never asked me about my boyfriend or whether we wanted to raise our child together. She never asked me if I wanted to know what help was available for me if I wanted to explore keeping my baby. She didn't even ask me if I had ever discussed my pregnancy with anyone or sought advice. The Planned Parenthood worker did not ask me anything about how the decision to have an abortion was arrived at and did not talk to me about the possibility of raising my child myself. She didn't even ask me if I had thought about adoption. She asked me one question. Did I want the abortion? I was numb and completely overwhelmed and overpowered by my father. He was in the waiting room and I had to face him. I had no way to get home without him. I have never felt so alone before or since. No one was on "my side." I answered the question "Yes." I wanted her to ask me about why and how the decision was made so I could have explained that I *wanted my baby*, but there was no counseling or further discussion. I wanted her to ask me if I wanted my baby. I wanted to engage in a discussion about that. I got no help. I was helpless to stop what my father put in motion.

15. I was then taken to a separate room to have an ultrasound done. The nurse turned the computer screen away so I couldn't see anything. She didn't ask me anything about the decision to have an abortion.

16. After the ultrasound, I was taken to an area where approximately 8 to 10 women had been herded to receive information about the abortion procedure itself. Afterwards, we were told to take a lunch break and return for our procedures.

17. My father and his girlfriend took me to Wendy's for lunch. His girlfriend told me not to resist my father's demands. They then took me back to Planned Parenthood for the abortion. I did not want to have an abortion, but I was completely overwhelmed and helpless. The three of

us then waited in the waiting room together.

18. After waiting for some time, I was called back for the abortion. A worker took me to a separate room with a reclining-type chair used in obstetrical offices. A female doctor introduced herself for the first time and explained how the procedure would be performed. She did not ask me any questions about how I arrived at the decision to have an abortion, or if anyone was forcing me to have an abortion I didn't want. She didn't give me any counseling of any kind about the decision to have an abortion. She didn't ask me if I considered keeping my baby. As soon as the procedure was over, the doctor left the room. I never saw her again. I don't even remember her name.

19. After the abortion, a worker brought me to a recovery-room type area where other women were sitting in chairs which reclined slightly. It was my understanding that I had to sit there for some predetermined period of time before I was cleared to leave the facility. Eventually, my father's girlfriend came to the room and I was allowed to leave. My father drove us all home.

20. I was devastated. During my entire time at Planned Parenthood, nobody tried to talk to me about why I was there or what was motivating me to have an abortion. Nobody asked me if I needed any help. Everyone there was so cold; none of them showed that they cared about my feelings at all.

21. The day after the abortion, I called my maternal grandmother. She was like a second mother to me, and she lived in Fort Pierre. I needed someone to confide in. She picked me up from school and drove me to her sister's house. I told her about the abortion and how my father made me do it. My grandmother was extremely upset. She called my mother in Texas.

22. The day after I met with my grandmother, my mother picked me up from school unexpectedly and a couple of days later brought me down to Texas to live with her.

23. Immediately after the abortion, I started to have major psychological problems. I was racked with guilt and wished that there had been a way for me to prevent my father and Planned Parenthood from killing my child. I realized that I should have called my mother right away and that she would have helped me. For the first year following the abortion, I had nightmares about the abortion almost every night. When I had the nightmares, I would relive seeing parts of my baby pass through the tube I was hooked up to.

24. Because the nightmares were so frequent, I developed insomnia because I was scared to fall asleep. Sometimes in the nightmares, I would relive the drive to Sioux Falls. I relived the experience of desperately wanting to find some way out of the abortion and the distress of experiencing the Planned Parenthood workers and doctor who didn't seem to care about me at all. I would relive the abortion procedure itself. I have envisioned that tube hundreds of times.

25. I would also have panic attacks four or five times a week. I would zone out and have flashbacks of that awful day. My chest would hurt, and I would have trouble breathing.

26. Although I have gotten better at dealing with the trauma of my forced abortion, I am still devastated by it. I still think about the abortion. I lost my child because I was terrified of my abusive father and what would happen to my boyfriend. I continue to wonder about my baby who was never born. For some reason, I feel strongly that she was a baby girl. I wonder what she would be like today. What would I have named her? She would be in school now. I wonder how she would look and what her favorite color would be.

27. I no longer have panic attacks, but still have nightmares approximately twice a week. I still see that tube. I still think about my child who would now be in school, and how my two boys would have had an older sister. Recently during a quiet time, I sat and cried for over an hour just thinking about all the joy I could have had with my daughter which has been forever lost.

28. I often wish that I had called my mother as soon as I found out that I was pregnant or had someone else right there to help me. My mother could have helped me keep my child and provided me with the necessary support to raise my baby. I recognize that I would have been a very young mother, but after the abortion I met another man and we got married.

29. I gave birth to two baby boys, and I have been able to take care of my two sons, and I am confident that I could have taken care of my first child as well. My husband and I lived in Minnesota for a while.

30. I wanted my baby who died in the abortion. I feel that I had the right to keep her and that right should have been respected. I am the one forced to live with the pain of losing my baby, the isolation of it and the guilt and depression that followed.

31. While I was pregnant with my second baby boy in 2016, I was referred by a woman at social services to Alpha Center in Sioux Falls. At the time, I was living in Pipestone, Minnesota, about 30-40 minutes from Sioux Falls. I went to Alpha Center to get more information about services to help me raise my son, and while there I had the chance to speak with someone about my abortion experience. The office was very welcoming, and it felt like a safe and secure place to unburden myself. The woman I spoke with was very sweet, and the counseling session was extremely helpful to me. I left with resource information, diapers, and wipes. Shortly after being at Alpha Center, I moved back to Texas.

32. I have been advised of South Dakota's anti-coercion statute which requires that pregnant mothers receive limited counseling by licensed counselors at a registered pregnancy help center prior to signing a consent for an abortion. It is my understanding that the trained personnel conduct an assessment for pressure and coercion. It is also my understanding that the law was passed in 2011, but that the court enjoined the third-party counseling requirement. It is especially

heartbreaking to realize that if that injunction had not been in place, I would have received the counseling that I so desperately needed, and I know that if I had been given a chance to go to Alpha Center, I would have my child today.

33. What I have learned is that South Dakota's anti-coercion statute was passed the year before I was forced to have an abortion. My child and I should have been a beneficiary of that law. I now know that the only reason that I did not get the help from that required counseling at Alpha Center is because Planned Parenthood went into court and got an injunction blocking my ability to get that counseling.

34. In effect, I was enjoined. I was prevented from getting the help I needed.

35. What is especially upsetting and offensive to me, is that I now understand that Planned Parenthood claimed that they had the right to go to court to litigate *my rights*, or what *they* claimed were my rights. I don't understand how they can claim that it was unconstitutional for me to get the help I needed to protect my right to keep my child. That was the right I wanted protected and Planned Parenthood prevented it. Planned Parenthood didn't represent me and my interests, and they do not represent the interests of other women like me.

34. If I had the benefit of receiving counseling by a trained professional at a pregnancy help center like Alpha Center, in a private setting outside of my father's controlling presence, I would have been able to ask for the help that I couldn't figure out how to request while he was controlling the process. Alpha Center could have called my mother and my grandmother, and Alpha Center could have counseled me through those discussions. If I had received that counseling, I would have been in a safe place and would have gotten the help I needed. It is obvious to me that Planned Parenthood does not care about my rights which I cared about. Without Planned Parenthood's interference, my baby would probably be alive, and I could have enjoyed a lifetime

with my child. Instead, Planned Parenthood made sure my father got what he wanted and ensured that I alone would suffer the emotional consequences of being forced to have an abortion that I didn't want.

Pursuant to 28 U.S.C. §1746, I certify under penalty of perjury that the foregoing is true and correct.

Dated:

4/8/19

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